

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

MICHAEL CURTIS,

Plaintiff,

v.

CIVIL ACTION NO. 2:14-cv-24624

OFFICER JUSTIN CLOSE, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

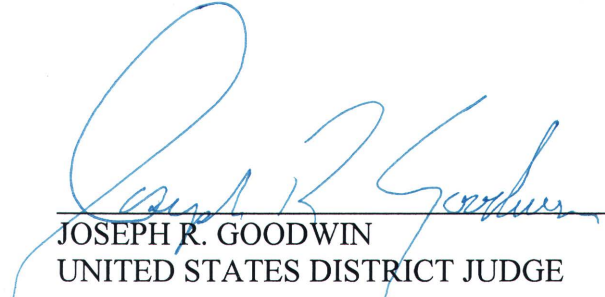
This action was referred to United States Magistrate Judge Dwane L. Tinsley for submission to this court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). On February 11, 2016, Judge Tinsley submitted his Proposed Findings of Fact and Recommendation [ECF No. 21] (PF&R”), recommending as follows:

- “[I]t is respectfully **RECOMMENDED** that the presiding District Judge **DENY AS MOOT** the plaintiff’s Motions for Temporary Restraining Order and Preliminary Injunction [ECF Nos. 4-2, 4-3, and 7-2].” PF&R 4.
- “[T]he undersigned proposes that the presiding District Judge **FIND** that all of the defendants are immune from liability from monetary damages in their official capacities under the Eleventh Amendment and, in their official capacities, are not persons who can be sued under 42 U.S.C. § 1983. Accordingly, such claims must be dismissed.” *Id.* at 7.
- “[I]t is respectfully **RECOMMENDED** that the presiding District Judge **GRANT** the Motion to Dismiss Plaintiff’s Official Capacity Claims [ECF No. 19], filed by defendants Close, Brag[,], and Leazure” *Id.*
- “It is further respectfully **RECOMMENDED** that the presiding District Judge leave this matter referred to the undersigned Magistrate Judge for additional proceedings concerning the plaintiff’s claims against all of the defendants in their individual capacities.” *Id.*

No party filed objections to Judge Tinsley's PF&R. Accordingly, the court **ADOPTS** and **INCORPORATES** Judge Tinsley's PF&R. The court **DENIES AS MOOT** the plaintiff's requests for preliminary injunctive relief [ECF Nos. 4 and 7] and the claims for declaratory and injunctive relief made in his Complaint [ECF No. 2]. The court **GRANTS** the defendants' Motion to Dismiss Plaintiff's Official Capacity Claims [ECF No. 19] and **DISMISSES** the plaintiff's official capacity claims. The court **ORDERS** this action to remain **REFERRED** to Judge Tinsley for further proceedings.

The court **DIRECTS** the Clerk to send a certified copy of this Memorandum Opinion and Order to Judge Tinsley, counsel of record, and any unrepresented party.

ENTER: March 8, 2016



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE